

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

VERONICA VALENTINE,

Plaintiff,

vs.

LISA VILLWOK, #1764; and JENNIFER
HANSEN, #1585;

Defendants.

8:16CV131

ORDER

8:16CV174

ORDER

This matter is before the Court following the Final Pretrial Conference held on September 11, 2017. The issue of appointing counsel for Plaintiff was raised during the hearing.

A civil litigant does not have a constitutional or statutory right to appointed counsel, but the Court may appoint counsel at its discretion. [28 U.S.C. § 1915\(e\)\(1\)](#). “[T]he appointment of counsel [for indigent civil litigants] should be given serious consideration by the district court if the plaintiff has not alleged a frivolous or malicious claim.” [Abdullah v. Gunter](#), 949 F.2d 1032, 1035 (8th Cir. 1991) (quoting [Nelson v. Redfield Lithograph Printing](#), 728 F.2d 1003, 1005 (8th Cir. 1984)). The Court considers a number of factors when determining whether an indigent litigant is in need of appointed counsel, including: “the factual complexity of the case, the ability of the indigent to investigate the facts, the existence of conflicting testimony, the ability of the indigent to present his claim and the complexity of the legal issues.” [Gunter](#), 949 F.2d at 1035 (citing [Johnson v. Williams](#), 788 F.2d 1319, 1322-23 (8th Cir. 1986)).

Although this case is not factually or legally complex, the Court’s observations during the hearing indicate Plaintiff does not have the ability to present her non-frivolous claim at trial without the assistance of counsel. Plaintiff was largely unable to communicate with the Court without the assistance of her sister, a non-lawyer, who spoke on Plaintiff’s behalf for the majority of the hearing. Plaintiff stated on the record that she would like an attorney. The undersigned magistrate judge contacted attorney Cathy Trent-Vilim, who has agreed to represent Plaintiff. The Court thanks Ms. Trent-Vilim for her service. Accordingly,

IT IS ORDERED:

1. Plaintiff's oral motion for appointment of counsel is granted. Cathy Trent-Vilim is hereby appointed to represent Plaintiff, Veronica Valentine, in this matter. Ms. Trent-Vilim shall enter her appearance upon receipt of this Order.
2. Upon receipt of this Order, Plaintiff, Veronica Valentine, is directed to promptly contact Ms. Trent-Vilim by telephone at (402)397-7300, and provide Ms. Trent-Vilim with Plaintiff's updated telephone number.
3. With the agreement of Chief Judge Smith Camp, and pursuant to ¶ II.A.1.a of [Amended Plan for the Administration of the Federal Practice Fund and the Federal Practice Committee](#), the Clerk shall promptly disburse to Ms. Trent-Vilim \$1,000 as an initial fee. Ms. Trent-Vilim shall be paid an additional fee of \$1,000 upon completion of the case. Should Plaintiff succeed and Ms. Trent-Vilim is awarded attorney fees and expenses as a prevailing party that exceed \$2,000 plus expenses, she shall reimburse the fund for the fees and expenses paid from the Federal Practice Fund. Ms. Trent-Vilim may also seek prior ex parte authorization from the undersigned magistrate judge for additional funds to be disbursed from the Federal Practice Fund to defray her necessary expenses.
4. The Clerk of Court shall mail copies of this Order to the Plaintiff at her address listed on the docket, and to Cathy Trent-Vilim, at 10306 Regency Pkwy Dr., Omaha, NE 68114, and shall also send her an emailed copy at ctrent-vilim@LDMLaw.com. The Clerk shall also provide a copy of this Order to Pat Williamson.

Dated this 13th day of September, 2017.

BY THE COURT:

s/ Michael D. Nelson
United States Magistrate Judge